

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814
(916) 322-5387



January 25, 1985

ALL-COUNTY LETTER 85-13

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: STEPHENS V. McMAHON: IMPLEMENTATION INSTRUCTIONS

REFERENCE: ACIN 1-106-84
ACL 84-125

Attachment I to this letter contains the instructions the County Welfare Departments must use to implement the retroactive portion of the November 8, 1984 San Diego County Superior Court order in the Stephens v. McMahon case. The court order, in part, provides for benefits back to October 1, 1984 for otherwise eligible AFDC recipients who received "windfall" money and as a result had lump-sum actions taken on their grants or applications after April 1, 1982. These actions must have resulted in periods of ineligibility or grant adjustments that continued past October 1, 1984.

Attachment II contains a copy of the Medi-Cal stuffers that will be mailed to designated recipients of Medi-Cal (see Attachment A in the instructions) on March 1, 1985 informing them of the court order and how to apply for benefits.

Finally, Attachment III contains reproducible copies of the posters (English and Spanish) which notify potentially eligible persons of the availability of benefits under the Stephens court order and how to apply for them. Instructions for the displaying of these posters are contained in Attachment I, "Stephens v. McMahon Instructions", Page 1 and 2.

We expect a final order in Shaw v. McMahon within several weeks (Shaw would prohibit us from applying the federal lump-sum rule when determining eligibility for State-only U). If the plaintiffs prevail in Shaw we will be issuing instructions as soon as possible after the order becomes effective. Potentially, all lump-sum cases not covered by Stephens will be eligible for some relief under Shaw. Stephens denial cases should therefore be retained so that they can be considered under Shaw when these instructions are released.

If you have any questions, please contact Bob Stipe at (916) 324-2012.


ROBERT A. HOREL
Deputy Director

Attch.

cc: CWDA

GEN 654 (9/79)

ATTACHMENT I

Stephens v. McMahon

Instructions

Stephens v. McMahon

Instructions

Background

On November 8, 1984 a judgment and order was entered by the San Diego Superior Court in the Stephens v. McMahon court case. This order requires the Department to define one-time windfall payments such as personal injury payments, workers compensation payments (but not to the extent they represent back wages), gifts, inheritances, lottery winnings, damage claim settlements, and insurance death benefits as resources in the month received and thereafter to the extent they are retained. This requirement is retroactive to October 1, 1984. Cases with these types of payments will not have the lump-sum income period of ineligibility applied (EAS 44-207.4) and may remain eligible for aid if they meet the requirements of Chapter 42-200.

The court order further provides that eligibility and grant amounts shall be redetermined for current or former AFDC recipients who received a lump sum of money and, as a result, the CWD suspended, denied, terminated, or reduced their AFDC benefits after April 2, 1982 and that action is or remains effective on or after October 1, 1984.

The following instructions describe the procedure by which claims for benefits will be made and eligibility for benefits determined.

Informing Potentially Eligible Persons of Availability of Benefits as of October 1, 1984.

In order to notify potentially eligible persons of the availability of benefits under this court case the State Department of Social Services (SDSS) shall do the following:

1. Develop and issue a notice with the March 1985 Medi-Cal card in English and Spanish that informs designated recipients of Medi-Cal (including current AFDC recipients - see Attachment A) of the court order and how to apply for benefits.
2. Issue the above notice in March 1985 to designated Pre-Paid Health Plan members.
3. Develop and issue to the CWDs a camera-ready copy of posters in English and Spanish which will inform potential claimants on the court decision and how to apply for benefits.

In order to notify potentially eligible persons of the availability of benefits under this court case the CWDs shall do the following:

1. Print posters (printing may be accomplished by photocopying on 8 1/2 x 11 paper) in English and Spanish from the camera-ready copy supplied by SDSS.

2. Post the English and Spanish posters printed by the CWDs in the lobbies and waiting rooms at all county welfare offices, no later than 30 days from receipt of this letter (but no later than March 1, 1985) through April 30, 1985.
3. Forward a supply of the English and Spanish posters printed by the CWDs to all food stamp issuance outlets within the county with a request that the posters be displayed in the lobbies and waiting rooms no later than 30 days from receipt of this letter (but no later than March 1, 1985) through April 30, 1985.

Application for Payment and Claim Processing

In order to be eligible to receive benefits back to October 1, 1984, the claimant shall be required to do the following:

1. Contact the CWD to make a request for back benefits.
2. Complete and submit to the CWD a claim form (a CA 1 that the CWD will mark Stephens v. McMahon Claim) no later than April 30, 1985. The date submitted shall be determined as follows:
 - a. If the claim is mailed to the CWD, the postmark date of the envelope; or
 - b. If the claim is delivered in person to the CWD, the date stamped on the claim; or
 - c. If the date cannot be determined by (a) or (b) above, the date the claim was signed.
3. Complete a CA 2 and such CA 7s as are necessary to determine eligibility (the CA 2 and CA 7s shall be marked by the CWD Stephens v. McMahon Claim). The Stephens CA 1 and CA 2 shall be for the initial month of benefits claimed. If the claimant is not eligible for benefits in the initial month for which benefits are claimed, the Stephens CA 1 and CA 2 will be retained and supplemented with information from subsequent CA 7s until eligibility, if any, is established.
4. Indicate on the Stephens CA 1 the CWD which denied, terminated, or suspended aid to the claimant (use block number three for this purpose).
5. Cooperate in obtaining all information/verification necessary to process the claim. Affidavits or declarations under penalty of perjury may be adequate documentation for this purpose if the claimant is unable to provide all the necessary information/verification. However, in this case the claimant is required to authorize the CWD to obtain the information. Failure to provide the needed information/verification shall result in denial of the claim.

In order to process the claimant's application for benefits back to October 1, 1984, the CWD shall be required to do the following:

1. Provide and/or mail the appropriate claim form(s) to the claimant upon request.
2. Stamp each returned claim with the date the claim was received by the CWD and the name of the county of receipt.
3. When the CWD receives a Stephens claim form (CA 1) on which the claimant indicates another CWD as the CWD which denied, terminated

or suspended aid, the CWD shall, with the assistance of the claimant, obtain whatever pertinent information (e.g., NOAs, CA 2s, CA 7s) is required to process the claim for back benefits from the former CWD in writing or by phone.

4. When a CWD receives a claim form (CA 1) on which the claimant indicates he/she lives in another county, the CWD shall stamp on the claim form the date it was received and forward the claim to that county for the determination of eligibility and amount of back benefits. In addition, the first CWD shall inform the claimant in writing that his/her claim has been forwarded to the welfare department in the county where he/she lives. (NOTE: The date of submittal of the claim form (CA 1) by the claimant shall be the date it was submitted to the first CWD).
 5. Determine eligibility and issue back benefits to eligible claimants or deny the claim, as appropriate, within 45 days of receipt of the completed claim forms. The 45-day time period should run from the submission of all Stephens CA 7s and the Stephens CA 2.
 6. Issue a Notice of Action within this same 45-day period to the claimant indicating.
 - a) Disposition of the claim,
 - b) Computation of back aid, and
 - c) The claimant's right to request a state hearing.
- [NOTE: Inability to complete the determination of eligibility within the 45-day period shall not be the basis for denying the claim unless the delay is caused by the refusal of the claimant to participate in the obtaining and supplying all information/verification necessary to process the claim. The specified time limit may be exceeded in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the CWD. In these instances the case record must show the cause of the delay].
7. Deny back benefits to those claimants who submit claim forms after April 30, 1985. However, these persons may still be entitled to prospective AFDC benefits if eligibility is established.
 8. Submit to the SDSS a statistical report on or before June 1, 1985. The report shall be submitted on the form provided by SDSS (see Attachment B) and shall contain:
 - a) The total number of Stephens v. McMahon claims;
 - b) The total number of claims granted;

- c) The total number of claims denied; and
- d) The total amounts paid.

The statistical report shall be mailed to:

Department of Social Services
Statistical Services Branch
744 P Street, MS 12-81
Sacramento, CA 95814

- 9. Submit to SDSS, on or before April 1, 1985, an explanation of what steps the CWD has taken to implement the new lump-sum income rule along with any written material the CWD disseminated to implement the new lump-sum rule. For example, the CWD shall send to the Department copies of any instructions and worksheets the CWD issues to their staff (including the date they were issued) which interpret or implement these instructions.

These documents shall be mailed to:

Department of Social Services
AFDC Program Development Bureau
744 P Street, MS 16-25
Sacramento, CA 95814
Attn: Bob Stipe

Determination of Potential Eligibility for Back Benefits

Claimants potentially eligible to receive back benefits are individuals who received a lump sum of money on or after April 2, 1982, had either the lump-sum income regulation applied (EAS 44-207.4) or an overpayment assessed (e.g., claimant failed to report the receipt of the money) and had the resulting period of ineligibility (lump-sum rule) or grant adjustment (overpayment recoupment) continue on or past October 1, 1984.

For claimants who apply for back benefits CWDs shall examine the source of the lump-sum payment. If the payment can be classified as a windfall payment such as personal injury payments, workers compensation (but not to the extent it represents back wages), gifts, inheritances, lottery winnings, damage claim settlements or insurance death benefits, then the money shall be treated as a resource (not income) in the month received and thereafter (to the extent it is retained) and eligibility for AFDC shall be determined. Lump-sum payments still subject to the lump-sum income regulation include those lump-sum payments representing current earned or unearned income that has accrued and would have otherwise been paid on a regular recurring basis. Lump-sum payments still subject to the lump-sum regulation include, but are not limited to back wages, Social Security benefits, retroactive Unemployment Insurance Benefits, and that portion of educational loans not otherwise exempt or used for educational purposes.

If, as a result of this redetermination of eligibility, the claimant's period of ineligibility or grant adjustment would not have existed on or after October 1, 1984 and the information provided by the claimant indicates that he/she would have been otherwise eligible, the claimant will be reimbursed for the AFDC benefits unpaid or recouped back to October 1, 1984. If, as a result of the redetermination of eligibility, the lump-sum payment is still classified as lump-sum income, total resources exceed the resource limit, or the claimant is otherwise ineligible, the claim shall be denied.

Determination of The Amount of Back Benefits

The amount of back benefits paid to the claimant shall be the sum of the aid payments unpaid or overpayments recouped that the claimant would have received on or after October 1, 1984 had the lump-sum payment been classified as a resource and not income in the month received, and the claimant is determined to be otherwise eligible for AFDC.

Examples

1. An assistance unit of three (MAP \$555) with no other outside income received a lump-sum payment of \$2,220 in August 1984 and reported it in September on the CA 7. The CWD applied the lump-sum income regulation (EAS 44-207.4) and computed a four-month period of ineligibility to begin on October 1, 1984 (\$2,220 divided by \$555 = 4 months). The claimant files a Stephens v. McMahon CA 1 for November 1984 with the CWD on March 15, 1985 seeking to have this action reviewed. The CWD schedules a conference with the claimant and assists the claimant in completing a Stephens v. McMahon CA 2 for November and CA 7s for each month the claimant wishes to apply for back benefits (December and January). The CWD obtains whatever other information is needed from the claimant or through third-party contacts. After reexamination under these instructions it is determined that the lump-sum payment was a windfall payment to be treated as a resource, not income, in the month received. The CWD reviews the Stephens v. McMahon CA 2 for November. If it indicates the claimant would have been eligible for AFDC that month (i.e., resource limit met) and the claimant had no other outside income, the claimant is eligible to receive the \$555 aid payment. This process is repeated for the remaining two months of the ineligibility period. If otherwise eligible, the claimant is entitled to the aid payments for November through January. The claimant is not eligible for a back payment for the month of February 1985 since their period of ineligibility expired at the end of January 1985. However, if otherwise eligible they may apply for and receive prospective AFDC benefits beginning March 15, 1985 (the date they submitted their claim for back benefits under Stephens).
2. An assistance unit of three (MAP \$555) with no other outside income received a lump-sum payment of \$600 in May 1984 but did not report it on the June 1984 CA 7. The CWD discovered the receipt of the money in July 1984, assessed an overpayment against the claimant, and began to recoup the overpayment in August 1984. The recoupment continues past October 1, 1984. The claimant files a Stephens v. McMahon CA 1 with the CWD on or before April 30, 1985 seeking to have this action reviewed. The CWD schedules a conference with the claimant, reviews the claimant's case record, and obtains whatever other information is needed from the claimant. After reexamination, under these instructions, it is determined that the money was a windfall payment to be treated as a resource in the month received and not income. Therefore, if the claimant was otherwise eligible (i.e., met the resource limits), an overpayment would not have been assessed, and the CWD must refund to the claimant the money withheld from the grant to recoup the overpayment from October 1, 1984 forward.

Delivery of the Retroactive Payment

The back payment shall be delivered to the claimant by the CWD in accordance with MPP Section 44-305.26. The back payment shall be used to offset any collectable outstanding overpayment in accordance with MPP Section 44-351.3. Any amounts in excess of the overpayment shall be paid to the claimant.

A Notice of Action explaining how the back payment was computed and informing the claimant of the right to request a state hearing shall be sent to the claimant no later than the date of payment.

Status of the Retroactive Payment

For purposes of determining continued eligibility and amount of assistance, these payments shall not be considered as income or as a resource in the month paid nor in the next following month per EAS 44-340.6.

ATTACHMENT A

Aid Codes

03 Medically Indigent - Aid to Adoption Program
04 Medically Indigent - Aid for Adoption of Children Program
06 Cash Grant - Emergency Assistance - Unemployed Parent
30 Cash Grant - AFDC-FG
32 Cash Grant - AFDC-FG Money Management
33 Cash Grant - AFDC-U Money Management
34 Medically Needy - AFDC-MN - No Share of Cost
35 Cash Grant - AFDC-U
36 20% Social Security Increase - AFDC - 20% SS
37 Medically Needy - AFDC-MN- Share of Cost
38 Cash Grant - Edwards v. Myers - Continuing Medi-Cal Eligibility
39 Cash Grant - Four Month Continuing
40 Cash Grant - AFDC - BHI
42 Cash Grant - AFDC-BHI- FED
44 Medically Needy, No Share of Cost - AFDC - BHI - MN
45 Medically Indigent - Children in Foster Care (Under 21)
Supported in Whole or in Part by Public Funds (FFP)
46 20% Social Security Increase - AFDC - BHI - 20% SS
47 Medically Needy, Share of Cost - AFDC - BHI - MN
81 Medically Indigent - 21 years or older
82 Medically Indigent Under 21 - No Share of Cost
83 Medically Indigent - Under 21 - Share of Cost
86 Medically Indigent - Confirmed Pregnancy - No Share of Cost
87 Medically Indigent - Confirmed Pregnancy - Share of Cost

State of California
 Health and Welfare Agency
 Department of Social Services

Send one copy to:
 Department of Social Services
 Statistical Services Branch
 744 P Street, M/S 12-81

STATISTICAL REPORT - Stephens v. McMahon

County

This report is ☐ Original Submission

☐ Subsequent Report
 No. _____

☐ Revision No. _____

1. Number of claims received..... _____
2. Number of claims granted..... _____
3. Number of claims denied..... _____
4. Total benefits paid..... _____

INSTRUCTIONS

The reporting period is from March 1, 1985 through April 30, 1985.

The due date for this report to be received in Sacramento is on or before
June 1, 1985.

Questions concerning completion of this report should be directed to the Statistical Services Branch at (916) 322-2230.

Person to contact regarding this
 report:

Telephone Number:
 ()

Date:

ATTACHMENT II

Medi-Cal Stuffer

**WERE YOUR AFDC BENEFITS TERMINATED OR REDUCED
BECAUSE YOU RECEIVED A LUMP SUM OF MONEY?**

IF SO, YOU MAY BE ABLE TO GET AFDC AND BACK BENEFITS.

WHO IS ELIGIBLE?

You may be eligible for additional AFDC benefits if you think the answer to all three of the following questions is yes:

1. Did you receive a lump sum of money after April 1, 1982?
2. Were your AFDC benefits as a result suspended, denied, terminated or reduced?
3. Were your AFDC benefits still suspended, denied, terminated, or reduced on or after October 1, 1984?

HOW TO CLAIM?

You must submit a claim form to the county welfare department in the county where you live. The county will ask you for additional information and will tell you what information you will need to provide.

If you answered yes to all of the above questions, get your claim forms and help in filing a claim from your county welfare department. Claim forms must be submitted by April 30, 1985 or you will not get back benefits. If you submit a claim form after that date you will be entitled to future benefits only.

**¿SE LE TERMINARON O REDUJERON SUS BENEFICIOS DE AFDC
DEBIDO A QUE RECIBIÓ UNA CANTIDAD GLOBAL DE DINERO?
SI ES ASÍ, POSIBLEMENTE PUEDA OBTENER AFDC Y BENEFICIOS
ATRASADOS.**

¿QUIÉN ES ELEGIBLE?

Usted pudiera ser elegible para beneficios adicionales de AFDC si piensa que puede contestar las tres preguntas siguientes afirmativamente:

1. ¿Recibió usted una cantidad global de dinero después del 1 de abril de 1982?
2. ¿Se suspendieron, negaron, terminaron o redujeron sus beneficios de AFDC como consecuencia?
3. ¿Estaban sus beneficios de AFDC todavía suspendidos, negados, terminados, o reducidos el o después del 1 de octubre de 1984?

CÓMO HACER LA RECLAMACIÓN

Debe presentar una forma de reclamo al departamento de bienestar del condado en que viva. El condado le pedirá información adicional y le dirá cuál información necesita proporcionar.

Si contestó que sí a todas las preguntas en ésta, puede obtener sus formas de reclamo, así como ayuda para registrar el reclamo, en el departamento de bienestar del condado. Las formas de reclamo tienen que presentarse a más tardar el 30 de abril de 1985, o de lo contrario no recibirá beneficios atrasados. Si presenta una forma de reclamo después de esa fecha, solamente tendrá derecho a beneficios a partir de la fecha en que la presente.

ATTACHMENT III

Camera-Ready Posters

WERE YOUR AFDC BENEFITS TERMINATED OR REDUCED BECAUSE YOU RECEIVED A LUMP SUM OF MONEY?

IF SO, YOU MAY BE ABLE TO GET AFDC AND BACK BENEFITS.

WHO IS ELIGIBLE?

You may be eligible for additional AFDC benefits if you think the answer to all three of the following questions is yes:

1. Did you receive a lump sum of money after April 1, 1982?
2. Were your AFDC benefits as a result suspended, denied, terminated or reduced?
3. Were your AFDC benefits still suspended, denied, terminated, or reduced on or after October 1, 1984?

HOW TO CLAIM?

You must submit a claim form to the county welfare department in the county where you live. The county will ask you for additional information and will tell you what information you will need to provide.

If you answered yes to all of the above questions, get your claim forms and help in filing a claim from your county welfare department. Claim forms must be submitted by April 30, 1985 or you will not get back benefits. If you submit a claim form after that date you will be entitled to future benefits only.

Take this poster down after April 30, 1985

¿SE LE TERMINARON O REDUJERON SUS BENEFICIOS DE AFDC DEBIDO A QUE RECIBIÓ UNA CANTIDAD GLOBAL DE DINERO?

**SI ES ASÍ, POSIBLEMENTE
PUEDA OBTENER AFDC Y
BENEFICIOS ATRASADOS.**

¿QUIÉN ES ELEGIBLE?

Usted pudiera ser elegible para beneficios adicionales de AFDC si piensa que puede contestar las tres preguntas siguientes afirmativamente:

1. ¿Recibió usted una cantidad global de dinero después del 1 de abril de 1982?
2. ¿Se suspendieron, negaron, terminaron o redujeron sus beneficios de AFDC como consecuencia?
3. ¿Estaban sus beneficios de AFDC todavía suspendidos, negados, terminados, o reducidos el o después del 1 de octubre de 1984?

CÓMO HACER LA RECLAMACIÓN

Debe presentar una forma de reclamo al departamento de bienestar del condado en que viva. El condado le pedirá información adicional y le dirá cuál información necesita proporcionar.

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